

REMARKS

Summary of Examiner's Action

In the subject office action, the Examiner provisionally rejected claims 1-2, 4, 12-13, 15 and 23-24 for double patenting based on the judicial created doctrine.

The Examiner further rejected

- claims 6, 8-9, 11, 33-38 under 35 USC §102(e) as being anticipated by Okano (US 6,573,825);

- claims 1-4, 12-16, 23-25 under 35 USC 103 as being unpatentable in view of Okano and Panther (USP 5,263,195) combined, and

- claims 5 and 26 under 35 USC 103 as being unpatentable in view of Okano, Panther and Anderson (USP 5,721,783) combined,

- claims 7, 10, 17-22, 27-32 under 35 USC 103 as being obvious in view Okano.

Provisional Double Patenting

Applicants respectfully disagree with the Examiner's provisional double patenting rejections alleging the claims at issue are not patently distinct. However, since the rejections are merely provisional, Applicants will defer responding to the rejections until the Examiner formally rejects the claims non-provisionally.

Rejection of claims 6, 8-9, 11, 33-38 under 35 USC 102(e)

In response, Applicants have amended claims 6, 8-9, 11, 33-35, and 37-38 to clearly differentiate Applicants' invention from Okano. In particular, claims 6, 9, 33 and 38 have been amended to recite in substance the limitation of the vibrational means being adapted to vibrationally output text messages with alphanumeric data.

With respect to vibrational output teaching, Okano merely teaches the vibrational output of a caller ID number or a name looked up based on a caller ID.

See e.g. Fig. 6 and its corresponding description in col. 5, line 15 thru col. 6, line 3.

Neither a received caller id nor a name looked up based on a received caller ID is within the plain meaning of the term “text message”, as the term is understood by those of ordinary skill in the art. Accordingly, claims 6, 9, 33 and 38 are patentable under 102(e) over Okano.

Claims 8, 11, and 34-37 depend on claims 6 or 33, incorporating its limitations. Therefore, for at least the same reasons, claims 8, 11, and 34-37 are also patentable under 102(e) over Okano.

Rejection of claims 1-4, 12-16 and 23-25 USC 103

Claims 1, 12 and 23 have been similarly amended to contain in substance the same distinguishing limitation of claims 6, 9, 33 and 38. Accordingly, for at least the same reasons, claims 1, 12 and 23 are patentable over Okano.

Panther does not remedy the above discussed deficiency of Okano. Therefore, claims 1, 12, and 23 remain patentable over Okano even when combined with Panther.

Claims 2-4, 13-16 and 24-25 are dependent on claims 1, 12 and 23 respectively, incorporating its limitations. Therefore, for at least the same reasons, claims 2-4, 13-16 and 24-25 are patentable over Okano and Panther combined.

Rejection of claims 5 and 26 USC 103

Anderson does not remedy the above discussed deficiency of Okano and Panther. Therefore, claims 1 and 23 are patentable over Okano and Panther, even when combined with Anderson.

Claims 5 and 26 are dependent on claims 1 and 23 respectively, incorporating its limitations. Therefore, for at least the same reasons, claims 5 and 26 are patentable over Okano, Panther and Anderson combined.

Rejection of claims 7, 10, 17-22 and 27-32 USC 103

Claims 17, 20, 27 and 30 have been similarly amended to contain in substance the same distinguishing limitation of claims 6, 9, 33 and 38. Accordingly, for at least the same reasons, claims 17, 20, 27 and 30 are patentable over Okano.

Claims 7, 10, 18-19, 21-22, 28-29, 31-32 are dependent on claims 6, 9, 17, 20, 27 and 30 respectively, incorporating its limitations. Therefore, for at least the same reasons, claims 7, 10, 18-19, 21-22, 28-29, 31-32 are patentable over Okano.

Conclusion

In view of the foregoing, Applicants respectfully submit that claims 1-38 are in condition for allowance. Early issuance of the Notice of Allowance is respectfully requested.

Please charge any shortages and credit any overages to Deposit Account No. 500393.

Respectfully submitted,
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